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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Telephone Number Portability

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) CC Docket No. 95-116  
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**COMMENTS OF PRIMECO PERSONAL COMMUNICATIONS, L.P.**

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## SUMMARY

PrimeCo initially thought, when the Commission initiated the instant proceeding in mid-1995, that wireless number portability (“WNP”) might help promote competition between new wireless entrants. The wireless marketplace has evolved considerably since then, however, and PrimeCo’s assumptions concerning the value of WNP have proven erroneous. Indeed, PrimeCo’s own experience demonstrates that WNP is unnecessary, and that the Commission should forbear from enforcing WNP to foster wireless competition and promote customer service.

Fundamentally, WNP undermines congressional and Commission policy of promoting CMRS deregulation. Congress initiated this policy in earnest in the 1993 Budget Act, and affirmed and expanded this policy with the Telecommunications Act of 1996. The 1993 and 1996 amendments to the Communications Act reveal Congress’ intent both to promote the deployment of competitive wireless networks and to minimize CMRS providers’ regulatory burdens. To effectuate this policy, the Commission has adopted a policy of forbearing from imposing burdensome Title II regulation on CMRS providers; WNP is inconsistent with these congressional and Commission objectives.

PrimeCo supports CTIA’s conclusion that Section 10 of the Communications Act mandates that the Commission forbear from enforcing WNP. First, WNP is unnecessary to assure that rates for CMRS providers are just and reasonable and not unjustly or unreasonably discriminatory. The Commission has already determined in other proceedings that CMRS competition will promote these objectives *independent* of WNP. Vigorous competition between cellular incumbents and new broadband PCS and

other wireless entrants has demonstrated further the soundness of this policy. Moreover, customers' inability to retain the same number does not prevent them from switching wireless carriers, as demonstrated by wireless churn rates.

For largely the same reasons, WNP is not necessary for the protection of consumers. Consumers easily switch from one carrier to another. Customer surveys further indicate that consumers are far more concerned about coverage and price issues than about their ability to retain their phone numbers.

Forbearance is consistent with the public interest. The Commission's original public interest justifications for WNP are largely irrelevant. Fostering increased competition and lowering entry barriers in the CMRS marketplace are not issues for CMRS. Symmetrical regulation of CMRS services is not implicated by CTIA's petition. WNP also will not promote wireless-wireline competition; rather this will be a market-based decision by individual CMRS providers on which WNP will have no bearing. Finally, CMRS providers already are efficient users of the numbering resource, and state and federal policies independent of WNP are the appropriate means of addressing this issue. These public interest factors clearly do not outweigh WNP's costly and detrimental impact on network deployment.

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**COMMENTS OF PRIMECO PERSONAL COMMUNICATIONS, L.P.**

PrimeCo Personal Communications, L.P. ("PrimeCo"),<sup>1</sup> hereby files the following comments in response to the Wireless Telecommunications Bureau's ("Bureau") Public Notice seeking comment on the Petition for Forbearance filed by the Cellular Telecommunications Industry Association ("CTIA Forbearance Petition") requesting that the Commission forbear from enforcing number portability requirements for CMRS providers.<sup>2</sup> For the reasons discussed herein, PrimeCo urges the Commission to grant CTIA's Petition.

**INTRODUCTION/BACKGROUND**

The Commission initiated this proceeding in July of 1995, shortly after PrimeCo was awarded its broadband PCS licenses. At that time, prior to network

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<sup>1</sup> PrimeCo is the broadband A/B Block PCS licensee or is the general partner/majority owner in the licensee in the following MTAs: Chicago, Milwaukee, Richmond-Norfolk, Dallas-Fort Worth, San Antonio, Houston, New Orleans-Baton Rouge, Jacksonville, Tampa-St. Petersburg-Orlando, Miami and Honolulu.

<sup>2</sup> *Public Notice, Wireless Telecommunications Bureau Seeks Comment on CTIA Petition Requesting Forbearance from CMRS Number Portability Requirements*, CC Docket No. 95-116, DA 98-111 (released January 22, 1998) ("Public Notice").

construction and service deployment, PrimeCo thought that wireless number portability might help promote competition between new wireless entrants, like PrimeCo, and incumbent cellular operators, and that the public interest benefits of WNP would outweigh its drawbacks.<sup>3</sup> PrimeCo also noted, however, that “number portability will carry high capital and operational costs as well as daunting technical hurdles.”<sup>4</sup>

The wireless marketplace, however, has evolved considerably in the nearly three years since PrimeCo was named the winning bidder for its PCS licenses — and PrimeCo’s assumptions in this area concerning the value of WNP have proven erroneous. For its part, PrimeCo has deployed a 16-city digital PCS network serving over 400,000 subscribers. Based on its *actual* wireless experience, PrimeCo has changed its position regarding the public interest benefits of WNP at this time. Instead, PrimeCo now urges the Commission to forbear from enforcing WNP. PCS customers want and need reliable, wide-area service coverage. System deployment efforts will be directly — and negatively — affected by WNP requirements and these requirements will not provide significant public interest benefits. Accordingly, the Commission should forbear from enforcing WNP to foster wireless competition and promote customer service.

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<sup>3</sup> PrimeCo’s view regarding the potential benefits of WNP was premised on two assumptions: (1) the inconvenience and expense associated with a number change might deter consumers from changing carriers; and (2) cellular billing and pricing would bear greater resemblance to that of landline carriers. *See* Comments of PCS PrimeCo, L.P., CC Docket No. 95-116, filed September 12, 1995, at 3-4; Reply Comments of PCS PrimeCo, L.P., CC Docket No. 95-116, filed October 12, 1995, at 1-2.

<sup>4</sup> *See* PrimeCo Comments at 1.

## DISCUSSION

### I. WIRELESS NUMBER PORTABILITY UNDERMINES THE CONGRESSIONAL AND COMMISSION CMRS DEREGULATORY SCHEME

Since the local number portability proceeding commenced, Congress has weighed in on the propriety of number portability in competitive markets. Recognizing that number portability can promote competition in non-competitive markets, Congress imposed a duty on all local exchange carriers (“LECs”) “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.” In so doing, however, Congress *expressly excluded* CMRS providers from the definition of “local exchange carrier.”<sup>5</sup>

While the Commission acknowledged that Section 251 does not authorize the imposition of number portability requirements on CMRS providers, it nevertheless concluded that other public interest factors militated in favor of WNP.<sup>6</sup> However, the Commission’s decision to impose WNP requirements conflicts with congressional and Commission policy.

The Communications Act clearly reveals that Congress has determined that competition in the wireless market warrants a deregulatory approach to CMRS

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<sup>5</sup> 47 U.S.C. §§ 153(26), 251(b)(2).

<sup>6</sup> *Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 8352, 8431-32 (1996) (“*First Report and Order*”), *aff’d in relevant part on recon.*, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236, 7315-16 (1997). The public interest factors cited by the Commission include: fostering increased competition in the CMRS marketplace, particularly for new service providers; symmetrical regulation of CMRS services; lowering barriers to entry; promoting wireless-wireline competition; and efficient use of numbering resources. *First Report and Order*, 11 FCC Rcd. at 8431-38 (*see discussion infra* at Section II.C.2).

providers.<sup>7</sup> Congress first recognized in the 1993 Budget Act, in authorizing the Commission to preempt state CMRS rate and entry regulation, that deregulation was important to foster wireless competition.<sup>8</sup> Congress in 1993 also authorized the Commission to forbear from enforcing most Title II regulation on CMRS providers.<sup>9</sup> Importantly, Congress recognized that rapid service and network deployment serves the public interest and fosters competition, and thus adopted a policy of promoting “the development and rapid deployment of new technologies, products and services . . . .”<sup>10</sup>

Congress *expanded* its deregulatory approach to CMRS in the 1996 Act.

New Section 271(b)(3) of the Act, for example, expressly authorizes BOC affiliates to

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<sup>7</sup> As CTIA notes, the Commission has generally followed this policy by forbearing from imposing many Title II common carrier obligations on CMRS providers. See CTIA Petition at 8 n.15 (citing *Interconnection and Resale Obligations pertaining to Commercial Mobile Radio Services, Second Notice of Proposed Rulemaking*, 10 FCC Rcd. 10666 (1995)). Indeed, the Commission has determined that competition will eventually render other Section 251-related obligations on CMRS carriers *unnecessary*. See 47 C.F.R. § 20.12(b), *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, 11 FCC Rcd 18455, 18468-69, (1996).

<sup>8</sup> 47 U.S.C. § 332(c)(3). As the Commission is aware, no state was given rate or entry regulation authority. See, e.g., *Petition of the People of the State of California and the Public Utilities Comm'n of California, Report and Order*, 10 FCC Rcd. 7486-7551, *recon. denied*, 11 FCC Rcd. 796, 817 (1995); *Petition of the Connecticut Dept. of Public Util. Control, Report and Order*, PR Docket No. 94-106, FCC 95-199 (released May 19, 1995), *recon. denied, Order*, 11 FCC Rcd. 848 (1995), *aff'd, Connecticut Dept. of Pub. Util. Control v. FCC*, 78 F.3d 842 (2d Cir. 1996).

<sup>9</sup> 47 U.S.C. § 332(c)(1)(A). As a result, the Commission decided to forbear from enforcing Section 214 certification requirements, Section 203 tariffing requirements and a number of other Title II requirements on CMRS providers. See 47 C.F.R. § 20.15; *Implementation of Sections 3(n) and 332 of the Communications Act, Second Report and Order*, 9 FCC Rcd 1411, 1478-81 (1994) (“CMRS Second Report and Order”).

<sup>10</sup> 47 U.S.C. § 309(j).



provide in-region “incidental interLATA services,” which include competitive services such as CMRS.<sup>11</sup> In addition, new Section 332(c)(8) of the Act exempts CMRS providers from equal access requirements.<sup>12</sup> The 1996 Act also terminated the McCaw Consent Decree, and lifted restrictions on BOC joint marketing of CMRS service in conjunction with other services.<sup>13</sup> The 1996 Act also affirmed Congress’ policy of promoting the rapid deployment of CMRS service by preempting state and local actions that prohibit service provision.<sup>14</sup>

In sum, the 1993 and 1996 amendments to the Communications Act reveal Congress’ intent to both promote the deployment of competitive wireless networks and to minimize regulatory burdens imposed on CMRS providers. As demonstrated herein and in CTIA’s petition, WNP contravenes both objectives. Moreover, Congress’ decision not to expressly exclude CMRS providers from number portability requirements demonstrates that Congress did not believe that WNP was important to promote CMRS competition.

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<sup>11</sup> *See id.* §§ 271(b)(3), (g)(3).

<sup>12</sup> *See id.* § 332(c)(8).

<sup>13</sup> Telecommunications Act of 1996, Pub. L. 104-104, §§ 601(d), (e) (1996).

<sup>14</sup> *See* 47 U.S.C. §§ 253, 332(c)(7).

## II. SECTION 10 OF THE COMMUNICATIONS ACT REQUIRES THE COMMISSION TO FORBEAR FROM APPLYING NUMBER PORTABILITY REQUIREMENTS TO CMRS PROVIDERS

Wireless carriers are currently required to implement number portability not later than June 30, 1999.<sup>15</sup> Under Section 10 of the Act, the Commission *must* forbear from imposing *any regulation* on a *class of telecommunications carriers or services* if it determines that:

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.<sup>16</sup>

As discussed herein, PrimeCo supports CTIA's conclusion that Section 10 mandates Commission forbearance from enforcing CMRS number portability requirements.

### A. Wireless Number Portability is Not Necessary to Ensure that CMRS Providers' Rates and Regulations Are Just and Reasonable and Not Unjustly or Unreasonably Discriminatory

Under Section 10(a)(1) of the Act, the Commission must first determine whether WNP is necessary to assure that rates for CMRS providers are just and reasonable and not unjustly or unreasonably discriminatory.<sup>17</sup> WNP clearly fails to meet this

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<sup>15</sup> 47 C.F.R. § 52.31(a).

<sup>16</sup> 47 U.S.C. § 160(a).

<sup>17</sup> *Id.* § 160(a)(1); *Hyperion Telecommunications, Inc. Petition Requesting Forbearance*; *Time Warner Communications Petition for Forbearance*; *Complete* (continued...)

criterion, as the Commission has *already* determined that CMRS competition will promote these objectives — independent of WNP. For example, in its *CMRS Second Report and Order*, the Commission concluded that:

Competition, along with the impending advent of additional competitors, leads to reasonable rates. Therefore, enforcement of Section 203 is not necessary to ensure that the charges, practices, classifications, or regulations for or in connection with CMRS are just and reasonable and are not unjustly or unreasonably discriminatory.<sup>18</sup>

The Commission's PCS experience has demonstrated the soundness of this policy. New broadband PCS entrants paid enormous monies for their wireless licenses and in network deployment activities. They therefore have enormous incentive to deploy service and vigorously compete against incumbent cellular providers. For example, PrimeCo submitted over \$1 billion for its 11 A/B Block broadband PCS licenses, and 18 months after license grant — in November of 1996 — launched service in all 11 markets, entering each market with zero market share. As noted above, PrimeCo today has over 400,000 subscribers and has spent over \$1 billion deploying its network to meet customer demand.

The Commission itself has also determined that CMRS providers *today* operate in a highly competitive market.<sup>19</sup> PrimeCo's experience is again illustrative in

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<sup>17</sup> (...continued)  
*Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers*, 12 FCC Rcd 8596, 8608 (1997).

<sup>18</sup> *CMRS Second Report and Order*, 9 FCC Rcd at 1478. Indeed, the Commission reached this conclusion notwithstanding its conclusion that the CMRS market at that time was not perfectly competitive. *See id.* at 1478-79.

<sup>19</sup> CTIA Petition at 7-8, n. 14 (citing *Implementation of Section 6002(b) of the*  
 (continued...)

this regard. PrimeCo competes with two cellular and as many as three new broadband PCS entrants in all eleven markets. In the Dallas-Fort Worth MTA<sup>20</sup> alone, for example, PrimeCo competes with cellular incumbents Southwestern Bell Mobile Services and AT&T Wireless Services, and with GTE, which operates as a wireless reseller. Sprint Spectrum, L.P., Nextel, PowerTel, Western Wireless, and Aerial Communications are other CMRS competitors in PrimeCo markets. This intense competition has resulted in lower prices to consumers. As Chairman Kennard recently stated, “Wireless telephone prices are dropping rapidly. In the nine months from April to December 1997, prices for cellular and PCS services dropped over 12% for low volume customers and over 31% for high volume customers.”<sup>21</sup>

**B. Wireless Number Portability is Not Necessary for the Protection of Consumers**

Under Section 10(b)(2), the Commission must determine whether enforcement of WNP is necessary for the protection of consumers. For largely the same reasons discussed *supra* in Section I.A, WNP is not necessary to protect consumers.<sup>22</sup>

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<sup>19</sup> (...continued)  
*Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Second Report*, 12 FCC Rcd. 11266, 11276, 11312-13 (1997)).

<sup>20</sup> PrimeCo provides broadband PCS in the Dallas-Fort Worth MTA through Dallas MTA, L.P., a Delaware limited partnership in which PrimeCo holds a sole general partnership and 80 percent equity interest.

<sup>21</sup> News Release, Press Statement of Chairman William E. Kennard on the Second Anniversary of the Telecom Act of 1996, released January 31, 1998.

<sup>22</sup> *See Petition for Forbearance from Application of the Communications Act of 1934, as Amended, to Previously Authorized Services*, 12 FCC Rcd. 8408, 8412 (Com. Car. Bur. 1997) (forbearance meets Section 10(a)(2) requirements for same  
 (continued...)

Indeed, the Commission's CMRS policy has instead been to protect consumers *by promoting competition*. In 1995, the Commission stated:

The rise of competitive forces . . . has been made possible . . . by the Commission's deliberate dismantling of an old regulatory structure, which emphasized service classifications, and the creation of a new structure whose hallmark is flexibility, *with regulation focused on protecting consumers by stimulating competitive forces*.<sup>23</sup>

As the wireless marketplace has since become even more competitive, WNP is clearly not "necessary" to protect consumers.<sup>24</sup>

In its *First Report and Order*, Commission noted that number portability would eliminate the need for customers to change numbers when switching wireless service providers. PrimeCo does not dispute that WNP would prove convenient to *some* consumers. In the highly competitive CMRS environment, however, *many* customers easily — and routinely — switch from one carrier to another. Churn rates among wireless customers remain high. Andersen Consulting last year reported that wireless

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<sup>22</sup> (...continued)  
reasons it meets Section 10(a)(1) requirements).

<sup>23</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, 10 FCC Rcd 8844, 8872 (1995); *see also* *Petition on Behalf of the Louisiana Public Service Commission for Authority To Retain Existing Jurisdiction over Commercial Mobile Radio Services Offered Within the State of Louisiana*, 10 FCC Rcd 7898, 7907 (1995) (state failed to demonstrate that CMRS market conditions are such that consumers require regulatory protection);

<sup>24</sup> The deregulatory objectives of Section 10 require that the Commission adopt a narrow definition of "necessary," similar to the Commission's approach with respect to Section 253(b). *See New England Public Communications Council*, CCB Pol. 96-11, FCC 96-470, ¶¶ 21-25 (rel. Dec. 10, 1996), *recon. denied*, FCC 97-143 (rel. April 18, 1997).

customers churn at annual rates of 30% in the United States, and that such rates may increase beyond 40% in the future.<sup>25</sup> Across all of PrimeCo's markets, slightly over half of all new customers were previously subscribers of another wireless service provider. Consumer protection concerns are simply not implicated by the Commission's number portability rules.

Moreover, PrimeCo's experience, as evidenced by a survey of PrimeCo customers undertaken during the fourth quarter of 1997, indicates that while consumers enjoy the quality of PCS, they are far more concerned about coverage issues and price than about their ability to retain their phone numbers. Similarly, a recent report by J.D. Power & Associates concluded that "PCS providers are perceived [by consumers] to be weaker in geographic coverage and roaming capabilities partially due to the fact that the technology is still being deployed."<sup>26</sup> Thus, it is critical that new entrants like PrimeCo be able to focus limited financial, engineering and marketing resources on network deployment to improve service coverage and quality.

**C. Forbearance from Applying Number Portability to CMRS Providers is Consistent with the Public Interest**

Finally, the Commission must determine whether forbearance would be consistent with the public interest.<sup>27</sup> In making this determination, the Commission must "consider whether forbearance . . . will promote competitive market conditions, including

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<sup>25</sup> News Release, Loss of Wireless Customers Reaching Epidemic Proportions, According to Andersen Consulting Study, Andersen Consulting, August 18, 1997, available at <http://www.ac.com>.

<sup>26</sup> J.D. Power and Associates, News Release, January 13, 1998 (available at <http://www.jdpower.com>).

<sup>27</sup> 47 U.S.C. § 160(a)(3).

the extent to which such forbearance will enhance competition among providers of telecommunications services.”<sup>28</sup> As discussed herein, forbearance will promote competitive market conditions by enabling new CMRS entrants to more economically deploy their networks, thereby expanding coverage and promoting competition with incumbent CMRS providers.

The Commission in 1994 acknowledged the effect of unnecessary regulation on infrastructure deployment.<sup>29</sup> In part for that reason, it “decided to forbear from the application of the most burdensome provisions of Title II common carriage regulation to CMRS providers.”<sup>30</sup> In its *First Report and Order*, however, the Commission decided that imposing Title II number portability requirements on wireless carriers — even though not mandated under Section 251 — would serve the public interest.<sup>31</sup> As discussed above, CMRS competition and entry barrier issues are *already* addressed by the competitiveness of the CMRS marketplace — WNP will not promote these objectives. Moreover, as discussed below, the other speculative benefits of WNP cited by the Commission clearly do not outweigh the tangible high costs associated with its implementation. In any event, grant of CTIA’s petition does not preclude the Commission from revisiting the issue of WNP at a later date, and reevaluating market conditions at that time.

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<sup>28</sup> *Id.* § 160(b).

<sup>29</sup> *See CMRS Second Report and Order*, 9 FCC Rcd at 1421.

<sup>30</sup> *Id.*

<sup>31</sup> *See supra* note 6.

**1. The cost of number portability implementation is high.**

As numerous commenters have discussed in a related proceeding, WNP implementation is complicated and will necessarily impose considerable costs on CMRS carriers.<sup>32</sup> Standards for wireless carriers have not yet been established, and accurate estimates for wireless carriers are difficult to obtain. WNP implementation will obviously be capital-intensive, however, and available preliminary estimates for wireline carriers confirm that such costs will be considerable. USTA recently testified at a Commission-sponsored public forum that the Cincinnati Bell alone has spent \$30 per access line to fulfill its local number portability obligations.<sup>33</sup> Other ILECs have estimated LNP costs running into the hundreds of millions of dollars.<sup>34</sup>

**2. The speculative public interest benefits of wireless number portability do not outweigh the detrimental costs of wireless number portability on network deployment**

Most of the Commission-enumerated public interest benefits of WNP are premised on the assumption that the inability to switch wireless telephone numbers

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<sup>32</sup> See, e.g., Comments filed in CC Docket No. 95-116, on January 9, 1998: AirTouch at 2-4; BellSouth at 2-5; US Cellular at 2-3 (comments filed in response to Public Notice, Wireless Telecommunications Bureau Seeks Comment on CTIA Petition for Waiver to Extend the Implementation Deadlines of Wireless Number Portability, CC Docket No. 95-116, DA 97-2579 (released December 9, 1997)). Technical problems have hindered number portability implementation for wireline carriers as well. See *Local Number Portability Phase I Implementation, Order*, CC Docket No. 95-116, DA 98-152, ¶ 1 (released January 28, 1998) (NANC informed Commission of "vendor failure to provide a stable platform to support local number portability").

<sup>33</sup> *En Banc* Forum on the State of Local Competition, Transcript, Statement of Roy Neel, President, United States Telephone Ass'n, January 29, 1998, available at <http://www.fcc.gov>.

<sup>34</sup> See "Big Money At Stake As FCC Approaches Ruling On Number Portability Costs," *Communications Today*, October 7, 1997.



constitutes a genuine disincentive for a consumer to switch carriers. This assumption, however, is inconsistent with the facts. As discussed above, the industry is highly competitive and consumers already routinely switch wireless carriers without WNP. Even assuming *arguendo* that WNP would make changing wireless carriers easier, the convenience to consumers would be marginal and would not outweigh the costs associated with WNP implementation.<sup>35</sup>

*Symmetrical Regulation.* Forbearance from enforcing WNP will not undermine the Commission's policy of regulatory parity among CMRS services. CTIA has requested that the Commission forbear from imposing WNP on *all* CMRS providers. Regulatory parity is thus simply not an issue with respect to WNP forbearance. Indeed, as discussed below, WNP will undermine new entrants' ability to expand coverage to better compete with cellular incumbents.

*Wireless-Wireline Competition.* It is highly questionable whether WNP alone would promote local competition; in any event, the customers that may, in the near term, switch from their incumbent LEC to a CMRS provider due to the availability of WNP does not outweigh the public interest detriment resulting from the immediate, tangible costs of WNP implementation. The Commission has recently stated that "PCS providers appear to be positioning their service offerings to become competitive with wireline service, but they are still in the process of making the transition 'from a comple-

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<sup>35</sup> Furthermore, even in a number portability environment, there will be costs to customers seeking to port their numbers from one carrier to another. Software compatibility differences in particular — even between CDMA carriers — would require subscribers to change handsets, even with WNP. Customers porting their numbers likely will also be subject to fees for switching carriers.

mentary telecommunications service to a competitive equivalent to wireline services.”<sup>36</sup> Further, Chairman Kennard has recently noted that “[f]rom their inception, CMRS services . . . have been valuable *complements* to wireline telecommunications services.” The Chairman also stated that “[t]he use of wireless technology as a substitute for wireline local exchange service could accelerate *if CMRS prices continue to decline as CMRS competition increases.*”<sup>37</sup> Thus, this public interest objective would be hindered by mandating WNP.

More fundamentally, WNP will not facilitate local competition in any event. Local number portability is a wireline paradigm only. Customer expectations for their wireless phone numbers are fundamentally different than their wireline numbers, and wireless customers still generally do not readily give out their phone numbers. Instead, the decision when — and whether — to enter the local exchange market will be determined entirely by reviewing market conditions and business opportunities. *Mandating number portability will have no bearing on that decision.*

The intense competition between PCS and incumbent cellular providers necessitates that PCS providers strongly focus on their core business — meeting the

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<sup>36</sup> *Application by BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order*, CC Docket No. 97-231, FCC 98-17 (released Feb. 4, 1998) (citing *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, FCC 97-75, *Second Report*, WT 97-14 at 55-56 (rel. Mar. 25, 1997), and *Applications of NYNEX Corp., Transferor, and Bell Atlantic Corp., Transferee, For Consent to Transfer Control of NYNEX Corp. and Its Subsidiaries*, File No. NSD-L-96-10, FCC 97-286 at para. 90 (rel. Aug. 14, 1997)).

<sup>37</sup> Remarks by William Kennard, Chairman, Federal Communications Commission, to Practicing Law Institute, December 11, 1997, Washington, DC.

mobile wireless demands of their customers, and competing with incumbent cellular providers as they upgrade their networks and lower prices. New entrants like PrimeCo, which alone has spent over \$1 billion for its PCS licenses and over \$1 billion in network deployment, have every incentive to recoup their investments by focusing on their wireless operations. Incumbent cellular carriers must compete with new entrants by improving service to retain customers and attract new ones — a situation which will intensify as new C, D, E and F Block licensees commence service. WNP, however, will require that CMRS carriers shift limited financial and engineering resources away from deployment efforts toward retrofitting existing handsets and switching and billing software and equipment. This, in turn, will hinder new PCS entrants' ability to expand coverage to compete with incumbent cellular carriers.

*Numbering.* PrimeCo does not dispute that the efficient use and administration of numbering resources is an important and legitimate Commission objective. Imposing number portability obligations on wireless carriers, however, will not further this objective. First, wireless carriers are already efficient users of the numbering resource. CMRS providers can assign numbers from relatively few NXX codes to customers residing within their home local calling area because of their large local calling areas. Thus, unlike a competitive LEC, which may require several NXX codes to match an ILEC's calling scopes and pricing plans in order to begin providing service in a metropolitan area, a new CMRS entrant requires fewer — in some cases, only one — NXX code to begin serving the same area. PrimeCo, for example, offers a much larger calling scope than wireline carriers in its service areas — MTA-wide or, in the case of Texas, nearly state-wide. As a result of these efficiencies, PrimeCo has had

little difficulty using its NXX blocks to at least 80-90% before opening a NXX block. In addition, service providers like PrimeCo which utilize advanced digital features encompassed into a single handset, only need one telephone number to handle *all* of the services — including wireless telephony, voice mail, and paging.

Furthermore, the Commission, state commissions, and NANC are all currently working to resolve numbering administration issues separate from the instant proceeding, and wireless carriers are already able to participate in some number conservation plans. In Texas, for example, where PrimeCo is licensed to serve three MTAs, the Texas PUC is considering a plan to consolidate rate centers whereby rate centers in the Dallas, Houston and Austin areas are reduced dramatically, and the pressing numbering demands of wireless carriers are addressed by creating a rate center and designating another for use by wireless providers.<sup>38</sup> Indeed, PrimeCo is *already* complying with this plan by assigning numbers by 1000 blocks sequentially. Other states, including Colorado, also are considering the creation of a single rate center region.<sup>39</sup> PrimeCo submits that alternatives such as these hold considerable promise as a means of dealing with issues of numbering administration and should be examined before imposing number portability requirements on wireless carriers.

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<sup>38</sup> Number Conservation Measures in Texas, Project No. 18438, Order No. 1 (Texas Public Util. Comm'n 1998); *see also* Order Approving Sequential Number Assignment, Project No. 16899, Numbering Plan Area Code Relief Planning for the 214/972 Area Codes, Project No. 16900, Number Plan Area Code Relief for the 713/281 Area Codes, Project No. 16901, Numbering Plan Area Code Relief Planning for the 512 Area Code (Texas Public Util. Comm'n Sept. 12, 1997)

<sup>39</sup> *See Communications Daily* (Dec. 1, 1997) at 8.

**CONCLUSION**

The realities of the wireless deployment, and the Communications Act's established policy of deregulation for CMRS providers, warrant that the Commission revisit its decision to impose number portability requirements on CMRS providers. As applied to Section 10 of the Act, the factors discussed herein — the competitiveness of the wireless industry, the need for carriers to focus their attention on deployment and coverage, and the speculative and marginal public benefits of WNP — require forbearance. Simply put, CMRS providers' finite financial resources are better spent on network deployment and coverage — thereby promoting competition and reducing prices — than on implementing Title II regulatory requirements that merely increase deployment costs and prices for consumers.

Respectfully submitted,

**PRIMECO PERSONAL COMMUNICATIONS, L.P.**

A handwritten signature in black ink, reading "William L. Roughton, Jr." followed by a stylized flourish or initials.

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